IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1934 of 1997

Between:

G.Gangaiah s/o Venkatappa, 36 years,

working as Male Orderly in T.T.D.Service at S.V.Poor Home,

Tirupati, Chittoor Dist

..... PETITIONER

AND

1 Executive Officer , Tirumala Tirupathi Devasthanam, Tirpuati, Chittoor District.
2 K.Kesava Reddy s/o K.R.Muni Reddy
D.No.3-84,Perumalpalli Village and post, Tirupati Rural and Mandal-517505

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ , order or direction especially one in the nature of Writ of Mandamus declaring that the proceedings dt. 26/08/1996 in Proods.No. Roc.TL2/47212/94 appointing the respondent No. 2 as illegal, being contrary to rules and violative of Arts. 14 and 16 of the Constitution of India and without power and authority and further declare that petitioner is entitled to be appointed to the post of Non-Medical Assistant based on the rules issued in G.O.Ms.No. 1060 read with G.O.Ms.No. 175,dt. 10/02/1992 read with G.O.Ms.No. 375 dt. 26/04/94d

Counsel for the Petitioner:MR.M.SURENDER RAO

Counsel for the respondent No.1: Smt. P. Sarada

Counsel for the Respondent No.2: MR.N.RAMA MOHANA RAO

The Court made the following :

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THE HONOURABLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION NO.1934 OF 1997

Order:

This writ petition is filed by the petitioner aggrieved by the action of the 1st respondent in appointing the 2nd respondent as Non-Medical Assistant.

According to the petitioner, he was appointed as Male Nurse Orderlee, on 5.2.1982. His services were regularized with effect from 19-4-1988. Subsequently, as per the scheme, petitioner made an application for sending him to the training of N.M.A. Accordingly, the 1st respondent permitted the petitioner by proceedings dated 18.12.1993. Thereafter, the petitioner was sent for training from 16.8.1994 to 15.12.1994. After completion of the training, petitioner made a representation on 4.1.1995 to consider his case for appointment as NMA, as a vacancy had arisen in S.V.Poor Home on 6.9.1993, which was part of the 1st respondent organization. When the 1st respondent negatived the claim of the petitioner and called for applications from the open candidates, petitioner field Writ Petition No.8573 of 1995 contending that as per the amended rules issued in G.O. Ms. No. 175,dated 10.2.1992, priority should be given to the candidates working under the management in any department for appointment by way of transfer. As such priority was not granted to the petitioner, petitioner filed the above mentioned writ petition. This Court considered the various contentions that were advanced on behalf of the

parties and finally rejected the claim of the petitioner. But, however, gave a direction to the respondents to consider the case of the petitioner along with other candidates. After considering the case of the petitioner along with others, the 1st respondent appointed the 2nd respondent. Aggrieved by that, petitioner has come up with the present writ petition.

Learned counsel reiterated the arguments that were advanced in the earlier round of litigation contending that as the petitioner is an in-service candidate having acquired qualifications for being appointed as N.M.A., he should have been appointed on priority basis instead of advertising the same calling for applications from the public. The learned counsel also contended that though the said rule which was incorporated in G.O. Ms. No. 175, dated 10.2.1992 was further amended by G.O. Ms. No.375, dated 26.4.1994, it did not affect the right of the petitioner. The learned counsel also contended that though similar issue was raised in the earlier writ petition, but, however, by that time, the 2nd respondent was not appointed. Therefore, the petitioner is entitled to question the appointment of the 2nd respondent, which, according to the petitioner is contrary to the amended rules 9 of the T.T.D. Employees Service Rules, 1989 framed in G.O. Ms. No. 1060, dated 20.04.1989. The above said contentions were disputed and denied by the counsel appearing for the 1st respondent and 2nd respondent. In fact, it is contended that the petitioner having lost in the earlier litigation, cannot re-agitate the same issue merely on the ground that since the 2nd respondent has been appointed subsequently, he is entitled to the appointment.

Heard both sides and gone through the material on record.

The very issue raised by the petitioner that the in-service candidates having acquired qualifications for being appointed to a particular post than the 2nd respondent on priority basis, was not accepted in the earlier writ petition filed in W. P. No. 8573/1995. The said order was also even confirmed in Writ Appeal. When once petitioner was not successful in getting order in his favour in terms of Rule 9 of the amended Rules, it is not open for the petitioner to re-agitate the same issue on the ground that the 2nd respondent was appointed subsequently. When once the petitioner's claim for priority for being appointed was rejected, the said rejection is once for all and therefore the petitioner is not entitled for any relief in the present writ

petition.

The writ petition is accordingly dismissed as devoid of merits. No costs.

30th July, 2004

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To

1 Executive Officer , Tirumala Tirupathi Devasthanam, Tirpuati, Chittoor District.

2. 2 CD copies.